

Bahrain: 8 Years after BICI Report

A Brief Report on the Report of the Bahrain Independent Commission of Inquiry

Introduction

By the end of November 2019, Bahrain will witness the occasion of the eighth anniversary of the release of the famous report, known as "Bassiouni," referring to the committee that issued the report on the investigation of the events of February and March 2011, headed by the late Professor Mahmoud Sharif Bassiouni. Despite these years, and the frequency and intensity of the conflicts that the report was supposed to bring to an end, citizens, activists, and local and international observers still recall the day Bassiouni made his famous speech at the launching ceremony of the report eight years ago. On that day, the man said the concluding speech at the end of the committee's work, leaving the lessons that will remain an unforgettable part of Bahrain's history. Besides that, it is worth recalling the memory and highlighting the lessons learned after the dramatic events that followed that day. This brief report is a reminder of the event and a recollection of the stages that make it necessary to further review and think in the future.

Background of the Establishment of the Committee: "Arab Spring" Protests

The Bahrain Independent Commission of Inquiry (BICI) was established in the aftermath of the most severe political earthquake in Bahrain's modern and contemporary history, and since the stage that has emerged from the experience of the National Union Committee and its different trends, which later drew the features of the political scene in the mid-fifties of the twentieth century, and beyond.

With the launch of the so-called "Arab Spring", specifically from the impoverished Bouzid state in Tunisia in early 2011, Arab peoples took to the streets and major squares in the countries of Egypt, Libya, Syria, and Yemen followed by movements in the Kingdom of Bahrain and the Sultanate of Oman, which led to apprehensive reactions among the Gulf regimes. The latter took the initiative of making quick and moderate policies to control the sudden and raging situation on the streets. The fastest of these policies was what happened in Bahrain after the decision to militarily intervene, where the GCC countries believed that they had "sufficient" justifications for this decision, as they form a single political system, and linked by cooperation agreements and joint defense. Even though it hasn't been a month on the launching of the democratic movement on February 14, 2011, the Peninsula Shield Force invaded the territories of the small Gulf Island, which was a decisive factor in the pace of besieging the popular movement, and a prelude to ending it on both the financial and political levels.

Military Intervention in Bahrain: Finishing Off the Opposition

The decision to militarily intervene was decisive and effective on the course of the protests in Bahrain, where the popular movement was besieged after systematic operations to isolate the regions, and raids and arrests were conducted against political and human rights activists, many of whom were referred to trials that appeared to be urgent and were sentenced to long-term provisions.

Despite this turn of events, the political and popular movement continued, albeit at a slower pace than in February, between 2011 and the end of 2012, after which indications began to suggest the government's decisive effort to force a siege on the opposition political associations and liquidate their activities. Things continued that way over the following two years, and only two political associations remained out of seven. Today, these remaining associations are facing a severe siege; they only have limited political action in very narrow areas.

The Harvest of the Official Repression

The severe repression of the movement in Bahrain has resulted in a vast number of human tragedies. In a small country of only 700,000 people, the crackdown has led to the detention of more than 5,000 political detainees, as well as the deaths of 200 people, some of whom died under torture. These alarming numbers represent a high proportion of the world's population.

Furthermore, the prosecutions have resulted in 5,000 unfair job dismissals based on political backgrounds. This result came after the establishment of large security investigation committees in all state facilities, and the public and private sectors, as the state television, and some writers and media, also contributed to informing on citizens for their participation in demonstrations and peaceful marches. All of these arbitrary measures have affected a wide range of citizens from different social strata, including workers, employees, teachers, students, doctors, and nurses, males, and females.

Field activists and independent human rights organizations were able to monitor many of these violations and abuses, documenting them in numbers, audio, and video, which constituted an exciting human rights material that quickly took its place in the international media, the reports of UN organizations, and international human rights organizations. This generated significant pressure on the Bahraini government, particularly with the emergence of public opinion abroad calling for an investigation into allegations of murder, torture, and abuses, and urging the government to return those dismissed to their jobs and to stop the repression and torture procedures.

Bassiouni Committee: The American Proposal

Faced with many constraints from the outside, Bahrain's government committed itself to a policy of exile and denial, but this has not worked to relieve the pressure or to remove the embarrassment. In this complicated circumstance, the US administration presented what is similar to a “lifeline” to the government by proposing the creation of a “special fact-finding committee” that would ease tensions, withdraw pretexts, and follow a policy of procrastination, taking into account the sensitivity of the small state, which is a crucial ally of Washington, and hosts the oldest US military base in the Gulf, as well as the accurate calculations that goes beyond Bahrain, and are related to the system of the Gulf States, especially Saudi Arabia.

This proposal was followed by a Royal Order issued on June 29, 2011, to establish the Bahrain Independent Commission of Inquiry, chaired by International Lawyer Mahmoud Sharif Bassiouni (Egyptian), and the membership of Philippe Kirsch (Canadian of Belgian origin), Nigel Rodley Simon (British), Badriya Al-Awadi (Kuwaiti), and Mahnoush Arsanjani (Iranian). At that time, it was thought that this line-up was intended to give the general impression that it was keen on “balanced representation.” The Commission's stated objective was to investigate the events that took place in Bahrain in February 2011. The Commission's current idea was to be guided by relevant international experiences on previous internal political conflicts, such as the National Commission on the Disappeared (1983), the National Commission for Truth and Reconciliation in Chile (1990), South Africa (1995) and Morocco (2004).

The Committee's Requirements

According to the Committee's website, its work has started in the light of determining whether the events of February and March 2011 involved violations of international human rights law, or any acts of violence, and those involved in such actions, as well as considering allegations of torture, enforced disappearance, conditions of detention, and harassment of the media, besides discussing the demolition of religious structures, and describing the involvement of local forces and foreign actors, all in the aim of achieving the task of uncovering what happened and what needs to be done to fix the situation. The Committee was allowed, as it announced, to meet with various parties and make recommendations. Moreover, it mentioned that the Government had undertaken to ensure that no one would be punished or fined in any form.

On the other hand, at the time the committee announced the outset of its work, the positions of the opposition parties differed on the committee's establishment; while some people were in favor or against its establishment, others were indifferent. The difference among the views is due to the doubts about the official steps announced, especially in the aftermath of the widespread repression in the country. The positive attitude of the opposition was favored on

the practical level, as political associations supported dealing with the committee, and considered that this step is an opportunity to show the reality of the situation, and a chance for the opposition to give its view on the events confidently through an international report that can produce impressive results. Accordingly, the committee began organizing meetings with various parties, official and opposition, as well as pro-government bodies.

The Report: Outcome of Work and Tasks

The Committee's work lasted for four months, and it received 5,200 complaints in just two months (between July 20 and September 20). Also, it met at its headquarters 2,400 people and was able to visit various prisons and meet with detainees, as professor Bassiouni mentioned to the Voice of America radio.

On November 23, 2011, the Commission presented its report at a crowded ceremony attended by the King, the Prime Minister, and the Crown Prince, with a large group of officials, diplomats, and journalists. During the ceremony, Bassiouni said in a speech that the establishment of the committee is considered a "historic event", appreciating the official position by saying: "the fact that a government still in power accepts an international investigation...without waiting for regional or international pressures to be exercised... and establishes the committee of members who were selected with great objectivity, not only to benefit from their knowledge, experience, and legacies, but also in light of their neutrality, objectivity, dedication to the cause of humanity, and their commitment to the protection of human rights against any infringement, which is the sole means to guaranteeing human welfare." Also, Bassiouni explained that the commission was asked to make the recommendations that it deems appropriate "to hold accountable those who violated the rights and freedoms of citizens, and to prevent the recurrence of these events."

The Committee's 500-page report consisted of 12 chapters that dealt with cases of demolition of religious structures, dismissals of public and private sector employees, the expulsion of students, and the suspensions of scholarships. One chapter was devoted to the investigation of allegations of foreign involvement in the events that occurred in Bahrain and another to discuss the matter of harassment by the media.

Bassiouni acknowledged that the commission's work was not easy, as it was launched in an atmosphere fraught with tension, under enormous pressure from public opinion, at a time when it was required to meet with large numbers of victims, to hear witnesses, and to ensure their protection, while ensuring the confidentiality of information and testimony. Bassiouni said: "the Commissioners and investigators worked to meet the expectations of Bahraini citizens to decisively intervene to prevent human rights violations regardless of the type of that violation or the perpetrator."

Bassiouni mentioned that the Commission received nearly 9,000 complaints, statements, and testimonies and conducted more than 5,000 individual interviews, in addition to dozens of meetings, and on-site investigations throughout the country. Moreover, he explained that the Commission also sought to resolve other problems including the dismissal and suspension of university students, employees, healthcare workers, and attempted to mitigate the negative effects of criminal prosecution.

General Abstracts of the Report

At the political level, the Committee thought that if the Crown Prince's initiative (Sheikh Salman Bin Hamad Al Khalifa) had been better met at the time, it would have aided in significant constitutional, political, economic and social reforms, and prevented many of the negative consequences that followed the events of February and March 2011. On the other hand, the opposition parties confirm that the Gulf military intervention was a crucial factor in abolishing this trend aimed at posing possible positive endeavors and in prioritizing security solutions over them. Moreover, the opposition sources also point out that the acceleration of the military intervention came at the request of "militant wings" in the governing house, as the opposition named them, and not because of the lack of response of the opposition political associations to the efforts of dialogue and negotiation.

At the human rights level, the Bassiouni Committee noted in its report that there were deliberate practices to extract confessions under coercion, other methods for retaliation and punishment, and insulting the detainee's religious sect; Shia sect. The committee emphasized that these practices fall within the definition of torture as defined in the "Convention Against Torture," which Bahrain had previously signed. Also, it considered that the lack of accountability of officials within the security system had led to a widespread culture of impunity. The Commission confirmed 35 deaths between February 14 and April 15, 2011, and explained that 30 of them were civilians and five belonged to the security services. Also, during this period, security forces systematically raided houses late at night and dawn and carried out attacks by masked men who forcibly broke doors and stormed homes; sectarian insults and verbal abuse often accompanied these practices, and in some cases, women were also exposed to such indignities. The number of people arrested during the declaration of the state of National Safety is 2929, and the most common charges made against them were incitement to hatred of the regime, illegal assembly, rioting, threatening government officials, premeditated murder, kidnapping, attempted murder, membership in an illegally established society, and spreading rumors. These charges, according to human rights organizations, violate the exercise of freedoms of opinion and expression that are guaranteed under the Bahrain Constitution and the International Covenant on Civil and Political Rights. The demolition of several places of worship was mentioned in the report; given the manner of the destructions, this was

considered as a form of collective punishment, as it was applied primarily to Shia structures, and thus triggered tensions between the government and the Shia population. Also, the committee stated in its report that over 2000 public-sector employees and over 2400 private-sector employees were dismissed, besides a large number of university students who were expelled or suspended according to arbitrary standards. Furthermore, the committee mentioned the killing of four expatriate foreigners, many of whom were injured in alleged attacks, as well as allegations that members of the Sunni community were targeted by demonstrators, either because of their allegiance to the regime or based on their sectarian affiliation.

At the regional level, the evidence presented to the Commission did not reveal a clear relationship between the Islamic Republic of Iran and the internal events in Bahrain. The Commission also found no evidence to suggest that Al-Jazeera Shield units, deployed in Bahrain as of March 14, 2011, committed any human rights violations.

Finally, the Commission concluded that most of the broadcasts on the official Bahrain Television contained offensive language, and television programs deliberately adopted inflammatory coverage of events, and some may have been defamatory.

Recommendations of the Bassiouni Report

The report included 26 recommendations, the first of which was the establishment of an independent and impartial national committee that consists of prominent figures representing the government, opposition political societies, and civil society to follow up, monitor, and implement the recommendations of the Commission. The second recommendation was the establishment of a national independent and impartial mechanism to hold accountable those in government who have committed unlawful or negligent acts resulting in the deaths, torture and mistreatment of civilians with a view to bringing legal and disciplinary action against such individuals, including those in positions of command, whether civilian or military, under the principle of superior responsibility and in accordance with international standards.

Regarding the security case, the Committee recommended considering the Office of the Inspector General in the Ministry of Interior as a separate entity, independent of the Ministry's hierarchical control. The tasks of this office should include receiving complaints and should protect the safety and privacy of complainants.

Also, it recommended for the National Security Agency to be an intelligence-gathering body, without law enforcement or arrest authorities, and to adopt legislative measures requiring the Attorney General to investigate claims of torture and other forms of cruel, inhuman, or degrading treatment or punishment.

The Committee submitted the remaining recommendations as follows:

- To allow the review of all convictions of National Safety Courts that did not take into account the basic principles of a fair trial.
- To conduct effective investigations in all cases of deaths attributed to security forces, identify those responsible for these cases, and investigate all allegations of torture and similar treatment by an independent and impartial body. In addition, a standing independent body to investigate all complaints of torture or ill-treatment, excessive use of force or other abuses at the hands of the authorities should be established.
- To implement an extensive program of public order training for the public security forces, the National Security Agency and the Bahrain Defense Force, including their private security companies, in accordance with UN best practices in order to ensure future compliance with the Code of Conduct for Law Enforcement Officials.
- To take all possible steps to avoid arrest without prompt access to lawyers or access to the outside world.
- To urgently establish and vigorously implement a program, by the government, for the integration of members from all the communities in Bahrain into the security forces.
- To train the judiciary and prosecutors on the necessity for their jobs to be a contributing factor in the prevention and eradication of torture and ill-treatment.
- To annul or mitigate convictions of persons charged with offenses involving political expression that does not include the incitement to violence, and to commute the death sentence for cases of murder arising out of the events of February/March 2011.
- To compensate the families of the deceased victims in accordance with the gravity of their loss and indemnify all victims of torture, ill-treatment, and solitary confinement.
- To consider reducing censorship on mass media and allowing the opposition greater access to television broadcasts, radio, and print media.
- To undertake appropriate measures including legislative measures to prevent incitement to violence, hatred, sectarianism, and other forms of incitement that result in to the violation of internationally protected human rights.
- To develop educational programs at the primary, secondary, and university levels to promote religious, political, and other forms of tolerance, as well as the promotion of human rights and the rule of law.

National Reconciliation

In general, the Committee recommended that the Bahraini Government should “prepare a national reconciliation program that addresses the grievances of groups which are, or perceive themselves to be, deprived of equal political, social and economic rights and that benefits all segments of Bahrain's population.”

Professor Bassiouni hoped that the Bahraini government sets, without delay, a timetable for the implementation of the recommendations mentioned in the report and follows up on their application."

The State's Reaction to the Committee's Report

The first reaction to the Bassiouni Commission report was fast. At the end of Mr. Bassiouni's speech at the official launching ceremony, the faces of senior officials were resented, and this was immediately expressed on the local media.

It is noteworthy that the reports published by the state's news agency "Bahrain News Agency" and during the period of the "Bassiouni Committee" work, have deliberately promoted that the Committee was on a course that contradicts the general orientation of citizens. However, it soon became clear that the recommendations made by the Commission at the end of its work were "a bitter drug to take," as Bassiouni, himself, expressed. It is the same term used by the Bahraini Minister of Justice, Shaikh Khalid bin Ali Al Khalifa, from the ruling family, when he described the report as "painful for the government, but it is the bitter drug that we should be taking."

In the same context, the official media played down the impact of the report through articles published in the government's newspapers, which raised the atmosphere of skepticism in the report, and claimed that it involved incorrect exaggerations. However, for the opposition associations, which showed some doubts at the beginning of the commission's announcement, the commission's report was partially fair, although the report did not condemn the government enough.

The State's Propaganda on Implementing the Recommendations

The issuance of such a report, of this level of description and recommendations, caused a great shock within the government and loyal group. The first rejection of the report and the questioning of its working mechanisms prevailed. In the following weeks, the government adopted a more self-defensive approach by claiming that the recommendations were fully implemented, after conducting some limited actions, which were a formality and did not address the essence of the crisis. Also, the official media fought a "hysterical war" to prove the final and full implementation of all the recommendations of the Bassiouni report. After that, at various periods, these parties resorted to fabricating statements by the Chairman of the Committee to substantiate these claims; however, it was later determined that deliberate distortion of the statements took place, and the man had to deny making such statements.

After Bassiouni's Report

On the first anniversary of the Bassiouni report, committee member Nigel Rodley told the Bahrain Mirror website that since he was the UN Special Rapporteur on torture in the 1990s, he has received much information indicating that torture in Bahrain has become a severe systematic problem, in particular, the torture of the political opposition. He added: "What we hoped for was the implementation of our recommendations, and Bahrain has laid a foundation of trust that may make political talks, negotiations, and dialogue, for progress, possible."

On the third anniversary of the report, the political societies in Bahrain organized a seminar on the status of the recommendations. It was mentioned in the seminar what the lawyer Mohammed Al-Tajer said; "three full years have passed since the Bassiouni report was issued and the aspirations of all those whose rights have been violated remain waiting to be fairly indemnified. Three years have passed, and the violations continue to be committed without regard to the promises made by the authorities to international bodies. "

Sports journalist Faisal Hayat, who was detained under the National Safety Act, said that dozens of journalists and photographers are still behind bars. He added: "We have more than 30 media workers fired and more than 150 affected at different levels," noting that the number of sports detainees at the time of announcement of the Bassiouni report was between five and six cases, but the number rose after the report's recommendations to 75 players facing different sentences of imprisonment.

The head of the Department of Liberties and Human Rights in Al-Wefaq, former MP Hadi al-Moussawi, said that the government is establishing many committees that claim to be interested in implementing Bassiouni's recommendations, in order to mislead the observers and to ensure that accountability is not confined to one side that could be held accountable for what has been accomplished or has not. He mentioned that: "The government initially formed a committee to follow up on the implementation of the recommendations, as stated in items (15 and 16), to include representation from the opposition in the committee, but the authority did not adhere to the components of this committee, and the potential representatives objected to this. After that, the authority formed another committee for the same purpose, namely the National Committee to follow up on the implementation of the recommendations, headed by Shura-Council chairman, Ali Saleh Al-Saleh; it worked for two months and then announced the termination of its duties! Then, a ministerial working group was formed to implement the report's recommendations, followed by the formation of a ministerial body for the same task; all these committees achieved no results."

The opposition concluded that this state's behavior indicates that the government is not serious in implementing the recommendations of the Bassiouni Committee. Also, it became certain to

the opposition that the government viewed the formation of the committee as a way out of the critical phase and its firm consequences. The opposition also reiterated that this "tactic" came with the blessing of Western countries, and especially under the "political cover of the American and British allies."

8 Years after the Report: Evading the Recommendations

Through a review of the security situation in Bahrain, and eight years after the issuance of the Bassiouni report, it is proved to observers and some members of the same committee that most of the recommendations of the committee were not fully implemented, and that the authority hastened to close the file of the raging political crisis in the country and was not serious about addressing its causes and adopting the mechanisms recommended by Bassiouni; most of the recommendations ended up being on the shelf until this day.

The ruling in Bahrain did not establish an "independent and impartial national committee comprising figures from the government, political associations, and civil society to follow up and implement the recommendations." Also, it did not "establish an independent and impartial mechanism to hold accountable those in government who have committed unlawful or negligent acts resulting in the deaths, torture, and mistreatment of civilians." Similarly, it did not implement the recommendation "to allow the review of all convictions of National Safety Courts that did not take into account the basic principles of a fair trial," and the recommendation "to conduct effective investigations in all cases of deaths attributed to security forces, identify those responsible for these cases, and investigate all allegations of torture and similar treatment by an independent and impartial body." No serious and fair trials were held to hold accountable those convicted with murders.

In the same way, the government disregarded the implementation of the rest of the recommendations, such as "taking all possible steps to avoid arrest without prompt access to lawyers or access to the outside world"; "Implementing and establishing, urgently and vigorously, a program by the government, for the integration of members from all the communities in Bahrain into the security forces"; "Training the judiciary and prosecutors on the necessity for their jobs to be a contributing factor in the prevention and eradication of torture and ill-treatment"; "Annulling or mitigating convictions of persons charged with offenses involving political expression...and commuting the death sentence for cases of murder arising out of the events of February/March 2011"; and "Compensating the families of the deceased victims in accordance with the gravity of their loss and indemnifying all victims of torture, ill-treatment, and solitary confinement."

This official position also included "less sensitive" recommendations, such as "reducing censorship on mass media and allowing the opposition greater access to television broadcasts, radio, and print media," as subsequently, the opposition platforms were restricted and most political associations were closed. The official media continued to consolidate the "one-opinion policy" and repressed other opinions, leading to the closure of the last independent media platform, Al-Wasat newspaper, on June 4, 2017, although it provided exclusive objective coverage of events.

In the years following the issuance of the Bassiouni report, the country witnessed a massive campaign to revoke the citizenship of hundreds of citizens, which contradicts the opinion of the Commission itself. This campaign included practices such as increasing court sentences against dissidents, opinion leaders, and prisoners of conscience and emphasizing on legislation related to fighting terrorism to apply it on the peaceful demonstrators, political associations, or human rights activists; this happened in the parliament where the opposition did not attend, objecting the continued political and security repression. Also, the practices included the increase of death sentences and life imprisonment, as many political prisoners were executed; this confirmed to international organizations that the orientation of the state's policy was not in line with the Committee's recommendations.

On the other hand, the Bahraini government persisted on one of the Bassiouni report recommendations in an attempt to use it for promotional purposes on a large scale. This recommendation is "to implement an extensive program of public order training for the public security forces, the National Security Agency and the Bahrain Defense Force... to ensure future compliance with the Code of Conduct for Law Enforcement Officials."

In this regard, the government circumvented the essence of the crisis in the country and evaded the real solutions, as it invoked the reality of the professional weakness of members and security agencies and the need for a code of conduct to sign several agreements actively and to conduct training courses with allied countries, without having an impact on improving the performance of these bodies, fixing the deficiencies, or "applying the best criteria to protect human rights from any violation, as it is the only way to ensure human welfare," as mentioned in the Bassiouni report, as well as "making recommendations that the committee deems appropriate, and holding accountable those who violated the rights and freedoms of citizens, and preventing the recurrence of these events."

Why Should the Recommendations Live on?

The recommendations of the Bassiouni report touched upon many aspects of the performance of the security system that dealt violently with the general popular movement, which resulted in widespread human rights violations, human tragedies amounting to extrajudicial killings, collective punishment of citizens, arbitrary dismissals, and systematic retaliation against targeted groups at different levels.

This does not mean to disregard what is being said regarding the nature of the performance of the Bassiouni committee which seemed to be trying to "strike the right chord," as evidenced by the committee's concern not to provoke the government's rage in the way of codifying the violations committed against the opposition and its masses. However, the overall recommendations would have contributed to alleviating the crisis and opening the way for a possible consensus that could heal the wounds, which could aid in restoring trust between the parties to the conflict, leading to national reconciliation. Unfortunately, this did not happen, although Bassiouni said at the end of his speech (November 23, 2011) that "the government of Bahrain should begin, without delay, in setting the timetable for the implementation of the recommendations," which has not yet been done.

Regardless of the successive readings years after the issuance of the Bassiouni report, the latter has become part of the documents related to Bahrain's political history. It cannot be avoided as it is considered an important document that codified an intense phase of the political conflict, which continues to this day, under many motives, the most important of which is to reach a higher level of fairness, civilization, freedom, and equality in Bahrain.